

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

C&J ASSOCIATES PEST CONTROL,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-cv-884-MEF
)	
BOB RILEY, et al.,)	
)	
Defendants.)	

MOTION TO DISMISS

COMES NOW Alabama Governor Bob Riley, sued in both his official and individual capacities, and moves this Honorable Court, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, to enter a judgment dismissing all the Plaintiff's claims against him on the following grounds¹:

- 1) The Plaintiff has failed to state a claim against the Governor upon which relief can be granted;
- 2) The Plaintiff's claims are barred by the statute of limitations;
- 3) The Plaintiff's claims under federal law against the Governor in his official capacity are barred by Eleventh Amendment immunity;
- 4) The Plaintiff's claims under state law against the Governor in his official capacity are barred by sovereign immunity;

5) The Plaintiff's claims under federal law against the Governor in his individual capacity are barred by qualified immunity;

6) The Plaintiff's claims under state law against the Governor in his individual capacity are barred by State-agent immunity;

7) The Plaintiff's claims against the Governor for declaratory and injunctive relief are nonjusticiable; and

8) The Plaintiff's claim for damages under the state competitive bid law are prohibited as a matter of law.

WHEREFORE, the above-cited grounds considered, Governor Riley requests that this Honorable Court enter a judgment in his favor dismissing all the Plaintiff's claims against him.

Done this 17th day of November 2006.

Respectfully submitted,

/s/ Scott L. Rouse

Scott L. Rouse

Bar Number ASB-6905-S72S

Deputy Legal Advisor

Office of the Governor

¹ A brief setting forth each of these grounds in greater detail is filed contemporaneously herewith.

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following attorneys:

Benjamin Howard Albritton
Richard H. Cater
Griffin Lane Knight
Robin Garrett Laurie
Robert Jackson Russell, Sr.
William Leonard Tucker

I also hereby certify that I have mailed by United States Postal Service to the following:

C&J Associates Pest Control
c/o Curtis Duncan
P.O. Box 8186
Montgomery, AL 36110

/s/ Scott L. Rouse

Scott L. Rouse
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